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11/07/05 8:49:03  
BK 513 PG 660  
DESDO COUNTY, MS  
W.E. DAVIS, CH CLERK

## GRADING AND TEMPORARY CONSTRUCTION EASEMENT

**THIS GRADING AND TEMPORARY CONSTRUCTION EASEMENT** (this "Agreement") is made the 28<sup>th</sup> day of October, 2005, by and between **INDUSTRIAL DEVELOPMENTS INTERNATIONAL, INC.**, a Delaware corporation (hereinafter referred to as "IDI"), and **DOVER SERVICES GROUP, LLC**, a Mississippi limited liability company ("Dover").

### BACKGROUND RECITALS

A. Dover has, on the date hereof, conveyed to IDI the real property described on Exhibit "A" attached hereto and made a part hereof by this reference ("IDI's Property").

B. IDI purchased IDI's Property for the purpose of (among other things) construction of certain facilities to provide access from Swinnea Road to other property owned by IDI located adjacent to and to the east of IDI's Property (the "Access Facilities").

C. Dover remains the fee owner of the real property located to the north of IDI's Property and further described on Exhibit "B" attached hereto and made a part hereof by this reference ("Easement Area").

D. IDI requested and Dover has agreed, as a condition to IDI's purchase of IDI's Property, that Dover grant to IDI the right to enter upon the Easement Area and to permanently alter the slope of the Easement Area to provide for a reasonably smooth transition from the property located to the north of the Easement Area (the "Northern Property") to IDI's Property after construction of the Access Facilities.

### STATEMENT OF AGREEMENT

NOW THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) in hand paid by IDI to Dover, and mutual covenants contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, IDI and Dover hereby agree as follows:

Section 1. Grant of Easement from Dover to IDI. Dover hereby declares, grants and conveys to IDI the right to permanently alter the slope of the Easement Area as

Dover Closing docset-v1.DOC

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deemed necessary by IDI to provide a 3:1 slope from the Northern Property to IDI's Property after construction of the Access Facilities (the "Slope Work") and further hereby declares, grants and conveys to IDI a non-exclusive easement for ingress and egress, grading, and related purposes in connection with IDI's completion of the Slope Work (the "Temporary Easement"). IDI shall have full and free use of the Easement Area for the purposes named and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the rights granted in this Agreement; provided such rights and privileges shall not include overnight storage of equipment and/or vehicles upon the Easement Area.

Section 2. Term of Temporary Easement. The Temporary Easement shall become effective as of the date hereof and shall continue in effect until such time as the Access Facilities, the Slope Work, and Post Completion Work (as defined below) are completed and IDI delivers to Dover written notice thereof, at which time the Temporary Easement shall automatically be extinguished and of no further force or effect.

Section 3. Insurance by IDI. IDI shall provide to Dover, prior to entry onto the Easement Area, a certificate evidencing the existence of liability insurance covering the activities of IDI and its contractors on the Easement Area pursuant to this Agreement.

Section 4. Maintenance and Post Completion Work. During IDI's activities permitted hereunder, IDI shall be responsible for providing reasonable erosion control in connection with such activities. Upon completion of construction of the Access Facilities, IDI shall remove any trash or other construction debris from the Easement Area and shall re-sod the Easement Area (the "Post Completion Work"). After completion of the Post Completion Work, all maintenance of the Easement Area shall be the sole responsibility of Dover.

Section 5. Governing Law. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the state of Mississippi.

Section 6. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of IDI and Dover and their respective successors in title to the IDI Property and the Easement Area.

Section 7. Recitals. The Background Recitals first set forth above are hereby incorporated herein by this reference and made a part hereof as if fully set forth herein.

Section 8. Counterpart Execution. This Agreement may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

Section 9. Dispute. In the event of any dispute between the parties hereto with respect to this Agreement, the prevailing party in any litigation arising therefrom shall be entitled to receive from the losing party its reasonable attorney's fees incurred in

connection therewith. In connection with the application or interpretation of any provision of this Agreement, each party hereto hereby waives the application of the rule of construction whereby an agreement is to be construed against the party drafting same.

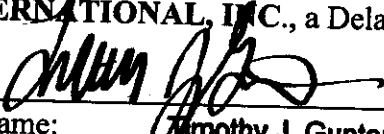
Section 10. Amendments. This Agreement may not be amended except by an instrument in writing duly executed by the party to be bound thereby.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, IDI and Dover have duly signed, sealed and delivered this Agreement, to be effective upon the date of this Agreement.

**IDI:**

**INDUSTRIAL DEVELOPMENTS  
INTERNATIONAL, INC.**, a Delaware corporation

By:   
Name: Timothy J. Gunter  
Title: Secretary

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

**DOVER:**

**DOVER SERVICES GROUP, LLC**, a Mississippi  
limited liability company

By: 

Name: Larry D. Dover

Title: Member

By: 

Name: Amy L. Dover

Title: Chief Manager/Member

STATE OF Georgia  
 COUNTY OF Fulton

Personally appeared before me, the undersigned authority in and for State aforesaid, the within named Timothy J. Gunter who acknowledged that as Secretary for and on behalf of and by authority of Industrial Developments International, Inc., a Delaware corporation, he/she signed the above and foregoing instrument and delivered said instrument on the day and year therein mentioned, after first being duly authorize to so do.

Given under my hand and seal of office this 12 day of ~~August~~ <sup>October</sup>, 2005.

Mona Hand  
 Notary Public: \_\_\_\_\_  
 My Commission Expires: \_\_\_\_\_

Mona Hand  
 Notary Public, Gwinnett County, Georgia  
 My Commission Expires Feb. 8, 2009

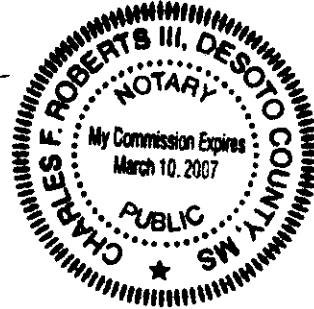


STATE OF Mississippi  
 COUNTY OF DeSoto

Personally appeared before me, the undersigned authority in and for State aforesaid, the within named Larry D. Dover and Amy L. Dover who acknowledged that as Member and Chief Manager/Member, respectively, for and on behalf of and by authority of Dover Services Group, LLC, a Mississippi limited liability company, they signed the above and foregoing instrument and delivered said instrument on the day and year therein mentioned, after first being duly authorize to so do.

Given under my hand and seal of office this 28<sup>th</sup> day of October, 2005.

Charles F. Roberts, III  
 Notary Public: Charles F. Roberts, III  
 My Commission Expires: March 10, 2007



**EXHIBIT A****[LEGAL DESCRIPTION OF IDI'S PROPERTY]**

Property description of part of Lot 5, Gail Plaza Subdivision as recorded in Plat Book 29 Page 8 in the Northeast Quarter of Section 19, Township 1 South, Range 7 West in the City of Southaven, Desoto County, Mississippi and being more particularly described as follows:

Commencing at a pk nail found in State Line Road, said pk nail being the recognized and accepted Northeast corner of Section 19, Township 1 South, Range 7 West in the City of Southaven, Desoto County, Mississippi; thence South 00 Degrees 32 Minutes 24 Seconds West with the east line of said Section 19 a distance of 741.37 feet to the true point of beginning; thence South 00 Degrees 32 Minutes 24 Seconds West with the east line of said Section and with the west line of the Industrial Developments International, Inc. property as described in Book 498 Page 471 a distance of 172.95 feet to a point on curve in the east line of Swinnea Road; thence northwestwardly along a curve to the left having a radius of 995.95 feet with the east line of Swinnea Road a distance of 94.36 feet (chord = North 18 Degrees 48 Minutes 17 Seconds West 94.33 feet, Delta = 05 Degrees 25 Minutes 43 Seconds) to a point of tangency; thence North 21 Degrees 31 Minutes 09 Seconds West with the east line of Swinnea Road a distance of 89.96 feet to a point; thence South 89 Degrees 57 Minutes 43 Seconds East a distance of 65.05 feet to the point of beginning and containing 5352 square feet.



**EXHIBIT B****[EASEMENT AREA]**

Commencing at a pk nail found in State Line Road, said pk nail being the recognized and accepted Northeast corner of Section 19, Township 1 South, Range 7 West in the City of Southaven, Desoto County, Mississippi; thence South 00 Degrees 32 Minutes 24 Seconds West with the east line of said Section 19 a distance of 741.37 feet to the true point of beginning; thence North 89 Degrees 57 Minutes 43 Seconds West a distance of 65.05 feet to a point in the east line of Swinnea Road; thence North 21 Degrees 31 Minutes 09 Seconds West with the east line of Swinnea Road a distance of 8.83 feet to a point of curvature; thence northwestwardly along a curve to the right having a radius of 1125.69 feet with the east line of Swinnea Road a distance of 12.11 feet (chord = North 21 Degrees 12 Minutes 39 Seconds West 12.11 feet, Delta = 00 Degrees 36 Minutes 59 Seconds) to a point; thence South 89 Degrees 57 Minutes 43 Seconds East a distance of 72.84 feet to the point of beginning and containing 1345 square feet.